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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,628	07/16/2008	Alfredo C. Fajardo	YSAP.VERITAS.PT3	4159

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INTELLECTUAL PROPERTY LAW GROUP LLP  
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SUITE 1205  
SAN JOSE, CA 95113

EXAMINER
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APPLE, KIRSTEN SACHWITZ

ART UNIT	PAPER NUMBER
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3694

NOTIFICATION DATE	DELIVERY MODE
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03/04/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pt\_docket@iplg.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/597,628	FAJARDO, ALFREDO C.	
	<b>Examiner</b>	<b>Art Unit</b>	
	KIRSTEN S. APPLE	3694	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **Detailed Action**

This action is in response to the application filed on 3/9/2008.

### **Examiner Note:**

There are claims filled on 3/9/2008 which the office has filled as "CLM" – claims. However, the document is 11 pages and has claims listed from 1-31 and printed on the top "WO 2005/076523" on the left and "PCT/SG2005/000026" on the right top of the page. The examiner believes this was miss labeled and should be "NPL" or non patent literature. Therefore, the examiner will review the claims on 8/1/2006 of 14 pages and claims 1- 41.

### **Claim Rejections - 35 USC § 101**

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972).

Claims 17-20 & 36-37 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

“authenticating party” is direct to a human and not patentable subject matter.

Examiner recommends rewriting the claims as an apparatus.

Claims 29-35 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

“a user” “authenticating party” “a mobile phone carrier” (is for example Verizon not Verizon’s network) is directed to a human and not patentable subject matter.

Examiner recommends rewriting the claims as the apparatus.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims listed below in this section are rejected under 35 U.S.C. 103(a) as being unpatentable over Hogl (U.S. Patent 7/702,581) in view of Bayne (U.S. Patent Publication 2005/0113073) in further view of Halpin (US Publication 2003/0159068)

**Re claims 1 & 3 & 13 & 15 & 17 & 19 & 21 & 23 & 25 & 27 & 29 & 30 & 36 & 37 & 38 & 39 & 40 & 41:** Hogl discloses:

A method & system & user application , comprising:

(means for) Identifying the user through user data information including a communication identifier associated with a mobile phone entered at new mobile phone, said user data being recorded in a database connected with said web page(see Hogl, Figure 1-4, item 12);

(means for) Generating and sending/communicating a unique passkey to a new/second communication identifier associated with a new mobile phone of the user (see Hogl, Figure 1-4, item 4 the passkey is the “4567” or “reference number” see column 18);

(means for) Receiving a passkey entered at the web page or predefined destination (see Hogl, Figure 1-4, item 6 & 8' + column 10 lines 4-42);

(means for) Comparing the generated unique passkey with the passkey included in the communication message (see Hogl, Figure 1-3, item 3 + Figure 4, item 18-22);

(means for) Authenticating the identity of user in accordance with the results of a comparison between the passkey entered at the web page or predefined destination and the generated unique passkey; and (see Hogl, Figure 1-3, item 3 + Figure 4, item 18-22);

Authorizing payment on successful authentication of the identity of said user. (see Hogl, Figure 1-3, item 3 + Figure 4, item 18-22);

Although Hogl is about payment rather than specifically transferring credit to a phone, Bayne claims "Transfer credit to a phone" specifically:

Authorizing transfer of the credit on successful authentication of the identity of said user (see Bayne, abstract).

If authenticated, authorizing the mobile phone carrier who operates the telecommunications network used by the mobile phone or SIM card and the new mobile phone to add the amount of credit associated with the mobile phone or SIM card to the credit associated with the new mobile phone (see Bayne, abstract + Figure 3a, item 306).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hogl by adapting transfer credit to a phone of Bayne.

It is clear that one would be motivated to combine prior art elements according to known methods to yield predictable results.

Although Hogl in view of Bayne does not have using web site by both users, Halpin claims “Using web site by both users”

(means for) Identifying the user through user data information including a communication identifier associated with a mobile phone entered at a web page or new mobile phone, said user data being recorded in a database connected with said web page(see Hogl, Figure 1-4, item 12);

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hogl in view of Bayne by adapting using web site by both users of Halpin.

It is clear that one would be motivated to utilize all means of communication throughout the process.

**Re claim 2 & 4 & 14 & 16 & 18 & 20 & 22 & 24 & 26 & 28:**

After authenticating the identity of said user, the step of updating said user data to include said new communication identifier (see Hogl, Figure 1-3, item 3 + Figure 4, item 18-22);

**Re claim 5:** see claim 1 + see Hogl Figure 1-4, item 1

**Re claim 6:** see claim 1 + see Hogl column 11 lines 61-67

**Re claim 7:** see claim 1 + see Hogl column 10 lines 4-42

**Re claim 8:** see claim 1 + see Hogl column 10 lines 4-42

**Re claim 9:** see claim 1 + see Hogl Figure 1-4, item 8

**Re claim 10:** see claim 1 + see Hogl column 11 lines 61-67

**Re claim 11:** see claim 1 + see H01 column 11 lines 61-67

**Re claim 12:** see claim 1 + see H01 column 11 lines 61-67

**Re claim 31:** see claim 1 + see H01 Figure 1-4, item 1

**Re claim 32:** see claim 1 + see H01 column 10 lines 4-42

**Re claim 33:** see claim 1 + see H01 Figure 1-3, item 3 + Figure 4, item 18-22

**Re claim 34:** see claim 1 + see H01 column 10 lines 4-42

**Re claim 35:** see claim 1 + see H01 column 11 lines 61-67

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The examiner believes this application reads on multiple prior art references for the sake of compact prosecution the examiner has provided an prior art and full rationale.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims listed below in this section are rejected under 35 U.S.C. 103(a) as being unpatentable over Linlor (U.S. Patent Pub 2005/0199709) in view of Bayne (U.S. Patent Publication 2005/0113073) in further view of Ueshima. (US Patent 6/731,731)

**Re claims 1 & 3 & 13 & 15 & 17 & 19 & 21 & 23 & 25 & 27 & 29 & 30 & 36 & 37 & 38 & 39 & 40 & 41:** Linlor discloses:

A method & system & user application, comprising:

(means for) Identifying the user through user data information including a communication identifier associated with a mobile phone entered at web site or new mobile phone, said user data being recorded in a database connected with said web page(see Linlor, Figure 3,item 330);

(means for) Generating and sending/communicating a unique passkey to a new/second communication identifier associated with a new mobile phone of the user (see Linlor, Figure 3, item 360)

(means for) Receiving a passkey entered at the web page or predefined destination (see Linlor, Figure 3, item 360)

(means for) Comparing the generated unique passkey with the passkey included in the communication message (see Linlor, Figure 3, item 370)

(means for) Authenticating the identity of user in accordance with the results of a comparison between the passkey entered at the web page or predefined destination and the generated unique passkey; and (see Linlor, Figure 3, item 360)

Authorizing payment on successful authentication of the identity of said user (see Linlor, Figure 3, item 360)

Although Linlor is about payment to a merchant rather than specifically transferring credit to a new phone/user, Bayne claims “Transfer credit to a phone” specifically:

Authorizing transfer of the credit on successful authentication of the identity of said user (see Bayne, abstract).



If authenticated, authorizing the mobile phone carrier who operates the telecommunications network used by the mobile phone or SIM card and the new mobile phone to add the amount of credit associated with the mobile phone or SIM card to the credit associated with the new mobile phone (see Bayne, abstract + Figure 3a, item 306).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Linlor by adapting transfer credit to a phone of Bayne.

It is clear that one would be motivated to combine prior art elements according to known methods to yield predictable results.

Although Linlor in view of Bayne does not have using cell phone by both users, Ueshima claims "Using cell phone" (see figure 1, item 111)

(means for) Identifying the user through user data information including a communication identifier associated with a mobile phone entered at a web page or new mobile phone, said user data being recorded in a database connected with said web page (see figure 1, item 111)

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Linlor in view of Bayne by adapting using cell phone of Ueshima.

It is clear that one would be motivated to utilize all means of communication throughout the process.

**Re claim 2 & 4 & 14 & 16 & 18 & 20 & 22 & 24 & 26 & 28:**

After authenticating the identity of said user, the step of updating said user data to include said new communication identifier (see Linlor, Figure 1-3, item 3 + Figure 4, item 18-22);

**Re claim 5:** see claim 1 + see Linlor Figure 1, item 120

**Re claim 6:** see claim 1 + see Linlor Figure 1, item 110

**Re claim 7:** see claim 1 + see Ueshima, Figure 1

**Re claim 8:** see claim 1 + see Ueshima, Figure 1

**Re claim 9:** see claim 1 + see Linlor Figure 2A, item 240

**Re claim 10:** see claim 1 + see Linlor Figure 2A, item 240

**Re claim 11:** see claim 1 + see Linlor Figure 2A, item 240

**Re claim 12:** see claim 1 + see Linlor Figure 2A, item 240

**Re claim31:** see claim 1 + see Ueshima, Figure 1

**Re claim 32:** see claim 1 + see Ueshima, Figure 1

**Re claim 33:** see claim 1 + see Linlor Figure 1-3, item 3 + Figure 4, item 18-22

**Re claim 34:** see claim 1 + see Bayne, abstract + Figure 3a, item 306

**Re claim 35:** see claim 1 + see Linlor Figure 2A, item 240

### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kirsten S. Apple whose telephone number is 571.272.5588. The examiner can normally be reached on Monday - Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Art Unit: 3694

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksa

/Kirsten S Apple/  
Primary Examiner, Art Unit 3694